

ARIZONA WATER BANKING AUTHORITY
Final Minutes

March 20, 2002
Arizona Department of Water Resources

Welcome/Opening Remarks

Richard Walden, Sen. Ken Bennett and Rep. Mike Gleason were absent from the meeting.

Minutes

The Authority approved the minutes from the December 19, 2001 meeting.

Water Banking Staff Activities

Tim Henley, manager of the Authority, reviewed the current deliveries. Mr. Henley stated that actual deliveries are on schedule with projected deliveries, although it is early in the year. However, it is shaping up to be a dry year, so actual deliveries could exceed projected if dry conditions continue.

Mr. Henley informed the Authority that staff are in the process of completing annual reports for water deliveries. Annual reports are due on March 31.

Mr. Henley recognized Chuck Cahoy who will again be providing counsel to the Authority. Mike Pearce, who had served as the Authority's counsel for the previous few years, left the Department of Water Resources (ADWR) and now works for Fennemore Craig. Mr. Pearce could be used in a contract capacity for work on the interstate agreements if needed. Mr. Henley reported that David Donnelly, Deputy General Manager of the Southern Nevada Water Authority (SNWA) would be retiring. Mr. Donnelly was a member of the interstate water banking negotiating team. Kay Brothers stated that Mr. Donnelly would retire on April 12 and that she would be assuming his duties at SNWA.

Mr. Henley provided the Authority with an update regarding legislation of interest to the Authority. He informed the Authority that there would be no comprehensive water management package going to the legislature this year. It may be presented next year when there is less discussion regarding the budget and more time for discussion and education regarding the water management issues.

A strike everything amendment to Senate Bill 1355 introduced by Senator Guenther would change the Authority's current statutory requirement to reserve a reasonable number of long-term storage credits accrued with general fund appropriation for M&I users outside the CAP service area. The new legislation would require the AWBA to reserve the 375,000 acre feet of credits accrued with general fund money before July 1, 2001 for this purpose. Mr. Henley stated that his concern with this amendment was that the Authority has the ability to do this and should do so on their own without changing the legislation. Mr. Henley stated that he had additional concerns, but would address them under a later agenda item. It was his belief that once the Authority addressed this issue, word could be passed on to Senator Guenther and the legislation could possibly be withdrawn.

Other legislation discussed was H.B. 2594 and H.B. 2643. H.B. 2594 gives exchanges between an agricultural improvement district and a multi-county water conservation district an exemption from the 12 month time period for completion of the exchange. This is pertinent because the Authority is often the recipient of water under these exchanges. H.B. 2643 returns *in lieu* tax dollars collected

by the Authority to the Water Protection Fund instead of the state general fund. Mr. Henley stated that hearings are currently being held on these pieces of legislation. He did not recommend any specific action be taken by the Authority.

Prioritization of the Use of Credits Developed with the General Fund

As discussed above, Mohave County requested Senator Guenther to sponsor the strike all amendment to reserve 375,000 acre feet of credits for them. Mr. Henley stated that there currently is no competition from other sources for the general fund credits, but that Mohave County has concerns regarding the future. He introduced Larry Dozier, Deputy General Manager of the Central Arizona Project (CAP) to discuss the issue associated with actual reservation of the credits.

Mr. Dozier informed the Authority that CAP is required to charge an *in lieu* tax for water used outside the three county CAP service area. Today, that tax is \$20-22 per acre-foot. Thus far, there has been no allocation of the general fund credits for a specific entity outside the service area. Consequently, the tax has not been charged on any of the credits developed with general fund money. However, if the legislative reservation occurs, the credits will be subject to the tax. Further, since the credits haven't actually been used by a particular entity, the tax cannot be passed on and would need to be paid by the Authority. This would generate a bill of about \$7.5 million at a time when the Authority has lost its general fund appropriation. Therefore, a resolution by the Authority was developed to serve in place of the legislative reservation.

George Renner stated that the resolution developed for the Authority only addressed "reasonable" and not a specific number of credits and questioned the reason for this. Mr. Dozier stated that the number that came out of the Study Commission was 420,000 acre feet, however, it is recognized that the number could change over time. Mr. Henley stated that it was his opinion that the resolution recognized "reasonable" as 420,000 acre feet even though it was not specifically stated in the "resolved" section of the resolution. He agreed with Mr. Dozier that picking a specific number is limiting because the true number could be either higher or lower at a later date due to changes in the system. Tom Griffin stated that this was discussed with Mohave County and that the county did not object to the resolution as written. This would hold true as long as full Authority approval was required to change what was "reasonable".

There was no further discussion and the Authority adopted the resolution. The Authority gave Mr. Henley approval to discuss this issue with Senator Guenther. Mr. Griffin stated that he would also be speaking with Senator Guenther.

State Budget Shortfall and Impact on Water Banking Authority

The state budget shortfall was discussed at the December meeting but the actual impact was not analyzed. In fiscal year (FY) 2002, the Authority did not receive the last \$1 million of the planned \$2 million general fund appropriation. The amount of general fund available to the Authority in FY 2003 is unknown, however, Mr. Henley's expectation is that there will be none. The impact of a zero general fund appropriation was evaluated.

The impact is minimal in the Phoenix and Tucson AMA's due to the amount of funds they generate. The primary area of impact is the Pinal AMA. Based on currently available funds and projections through end of year, deliveries to the Pinal AMA will possibly need to be decreased about 12,000 acre feet due to lack of funds. Mr. Henley presented the following options:

- (1) Inform Pinal County partners that deliveries will be short and alternative water sources will need to be utilized. CAP would then need to recalculate the remaining water charges due. It should be borne in mind that actual losses may be more than 12,000 acre-feet because in dry years, the Pinal County irrigation districts have historically used more water. If those

additional deliveries are foregone, the actual acre-foot loss of storage could be closer to 30,000 acre-feet.

- (2) If revenues are higher than projected, the 2002 deliveries could be achieved, however, there would be no additional money to purchase water until May or June of 2003.
- (3) Funds could be moved from other accounts.
- (4) Utilize Nevada as a partner and initiate interstate water banking. Although all of the necessary agreements are not in place, there is the possibility that they could be ready by June. This would require additional action on the part of the Authority.

Mr. Henley stated that staff is not asking today for a decision about storing water for Nevada. June would be a realistic timeframe for addressing initiation of interstate banking.

Mr. Renner asked if the funds generated by interstate banking would be subject to legislative loss. Mr. Henley stated that they would not because they are received and disbursed almost simultaneously. Any carryover would be held by CAP not by the Authority.

Joseph C. Smith noted that he agreed with Mr. Henley that there will be no general fund money available in FY 2003. Further, it will probably be difficult to get it back in FY 2004. Mr. Smith also stated that he does not think the legislature is looking at any of the Authority's other funds at this time.

Mr. Griffin asked if action needed to be taken to direct staff. Mr. Henley stated that he would feel more comfortable as the previous action taken by the Authority was specifically to direct staff to negotiate agreements. Now they would be discussing actual storage, Mr. Henley would prefer it be through direction by the Authority.

The Authority directed staff to begin discussions with Nevada regarding the possibility of interstate storage in 2002 and 2003.

Update on Status of Interstate Agreements

Mr. Henley reported that the Storage and Interstate Release Agreement (SIRA) is in the middle of the public process. Thus far, the Bureau of Reclamation hasn't received numerous comments but they have had some requests for copies of documents. The expectation is that the SIRA will be finalized in the next month and be ready for approval in June.

Update on Status of AWBA Contract Agreements

Mr. Henley stated that the agreements had all been extended by letter until the end of April. Drafts of the agreements are being worked on but they are not yet ready for execution. He said that the Authority may decide to have a special meeting for approval of agreements since there are so many.

The Groundwater Savings Facility agreement is different because it is now only between the Authority and the partner. The Intergovernmental Agreement is different because it is no longer the mechanism for water delivery. The Excess Water Contract will be the contract for water delivery but the Authority's will be different from others because of the differences in the Authority's delivery and payment. The CAP is in the process of drafting a new Master Storage Facility agreement that will cover storage at all of the CAP facilities.

Mr. Renner asked if a new motion was needed to extend the deadline further. Mr. Henley replied in the negative because although the letters only extended 4 months, the Authority approved extension for up to one year.

Presentation by Tucson AMA Institutional and Policy Advisory Group (IPAG)

Sharon Megdal, representing the IPAG, provided an informational briefing regarding CAP storage and recovery in the Tucson AMA. The IPAG has reexamined the 1998 Regional Recharge Plan and is doing some updated analysis to include Authority activities in the AMA. An interactive spreadsheet has been developed for use as an analytical tool. The spreadsheet allows various scenarios to be modeled.

The model has shown that the M&I firming target for the Tucson AMA will be very difficult to meet and the IPAG has begun analyzing a number of options to bridge the firming gap. Ms. Megdal also discussed the IPAG's interest in recovery, specifically looking at where water is stored and how it will be recovered. The IPAG intends to continue their dialogue with CAP, the Authority, ADWR and others regarding recovery.

Mr. Henley noted that the IPAG has provided assistance to the Authority in the past and he anticipates that they will continue to provide input regarding Authority activities in the AMA.

Update on Preparation of 2001 Annual Report

Gerry Wildeman stated that the Annual Report is still in the preliminary draft stage so copies were not distributed. Drafts of the report will likely be available about a month before the next meeting. Ms. Wildeman noted that the current report will be very similar to past reports, briefly discussed the statutory requirements regarding the Annual Report and requested Authority members to inform staff of any particular items they would like discussed in the report.

Mr. Henley discussed the development of the ten-year plan portion of the Annual Report. He stated that the new ten year plan will include changes to the revenues available to the Authority, an interstate water banking component and activities of other entities that could effect the Authority's availability of water (i.e. the CAGR). The ten-year plan will be incorporated into a larger planning process being developed between the Authority, ADWR, and CAP.

Mr. Renner stated that he would like to see included in the Annual Report a discussion regarding the Governor's Groundwater Management Commission.

Call to the Public

Marvin Cohen from the City of Tucson commented that Tucson is very concerned with developing additional storage and with recovery, particularly with linking recovery with storage. He stated that the Central Avra Valley Storage and Recovery Project could have additional 20,000 acre-feet of storage available in the future.

Mark Myers stated that his comments mirror Mr. Cohen's and Ms. Megdal's regarding interest in storage and recovery. He noted that his clients see interstate storage and recovery as a trial run for intrastate storage and recovery because interstate recovery is on a shorter timeline.

The next AWBA meeting is scheduled for Wednesday, June 19, 2002.

The meeting concluded at 11:28 a.m.